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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

JUN 29 2006

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF SPRINT LONG DISTANCE, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE RESOLD INTEREXCHANGE SERVICE AND FOR DETERMINATION THAT SERVICES OF THE APPLICANT ARE COMPETITIVE.

DOCKET NO. T-20443A-06-0112

DECISION NO. 68828

ORDER

Open Meeting  
June 27 and 28, 2006  
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On February 27, 2006, Sprint Long Distance, Inc. ("Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold<sup>1</sup> interexchange services within the State of Arizona.

2. Applicant was incorporated in 2005 as a new start-up entity.

3. On March 31, 2006, the Commission's Utilities Division Staff ("Staff") issued its Letter of Insufficiency and First Set of Data Requests.

4. On April 14, 2006, Applicant filed its response to Staff's Data Requests, including an Affidavit of Publication indicating compliance with the Commission's notice requirements.

5. On June 1, 2006, Staff filed a Staff Report which included Staff's fair value rate base

<sup>1</sup> In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") are public service corporations subject to the jurisdiction of the Commission.

1 determination in this matter and recommended approval of the application subject to certain  
2 conditions. The Staff Report addressed the overall fitness of Applicant to receive a Certificate and  
3 also addressed whether its services should be classified as competitive and whether its initial rates are  
4 just and reasonable.

5 6. Staff stated that Applicant provided unaudited consolidated financial statements of the  
6 parent company, Sprint Nextel Corporation, for the year ending September 30, 2005, which lists  
7 assets of \$101.135 billion, equity of \$51.532 billion and net income of \$1.588 billion.

8 7. Applicant's tariff indicates that it requires deposits from its customers for services.  
9 Therefore, Staff recommended that the Applicant procure a performance bond equal to \$10,000,  
10 which should be increased if at any time it would be insufficient to cover advances, deposits, and/or  
11 prepayments collected from the Applicant's customers. The bond amount should be increased in  
12 increments of \$5,000 when the total amount of the advances, deposits, and/or prepayments is within  
13 \$1,000 of the bond amount. Staff recommended that proof of the performance bond be docketed  
14 within 365 days of the effective date of this Decision or 30 days prior to the provision of services,  
15 whichever comes first, and must remain in effect until further order of the Commission. Staff stated  
16 that if the Applicant does not collect an advance, deposit, and/or prepayment at some time in the  
17 future, that the Applicant be allowed to file a request for cancellation of its established performance  
18 bond. The request should be filed with the Commission for Staff's review, upon completion of  
19 which, Staff will forward its recommendation to the Commission.

20 8. In the event that the Applicant experiences financial difficulties, there will be minimal  
21 impact to its customers because end users can access other interexchange providers via dial around  
22 service or, in the longer term, the customer may desire to permanently switch to another provider.

23 9. Generally, rates for competitive services are not set according to rate of return  
24 regulation, but are heavily influenced by the market. Staff stated that based on information obtained  
25 from the Applicant, it has determined that Applicant's fair value rate base ("FVRB") is zero and  
26 Applicant's FVRB is too small to be useful in a fair value analysis, and is not useful in setting rates.  
27 Staff reviewed the rates to be charged by the Applicant and believes they are just and reasonable  
28 because they are comparable to several long distance carriers operating in Arizona, as well as

1 comparable to rates the applicant charges in other jurisdictions.

2 10. Staff believes that Applicant has no market power and that the reasonableness of its  
3 rates will be evaluated in a market with numerous competitors. In light of the competitive market in  
4 which the Applicant will be providing its services, Staff believes that the rates in Applicant's  
5 proposed tariffs for its competitive services will be just and reasonable, and recommends that the  
6 Commission approve them.

7 11. Commission rules provide pricing flexibility by allowing competitive  
8 telecommunication service companies to price their services at or below the maximum rates  
9 contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109.  
10 This requires the Applicant to file a tariff for each competitive service that states the maximum rate  
11 as well as the effective (actual) price that will be charged for the service. Any changes to the  
12 Applicant's effective (actual) price for a service must comply with A.A.C. R14-2-1109, which  
13 provides that the minimum rates for the applicant's competitive services must not be below the  
14 Applicant's total service long run incremental costs of providing the services. The Applicant's  
15 maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on  
16 file with the Commission. Future changes to the maximum rates must comply with A.A.C. R14-2-  
17 1110.

18 12. Staff recommended approval of Applicant's application subject to the following  
19 conditions:

20 (a) The Applicant should be ordered to comply with all Commission rules, orders,  
21 and other requirements relevant to the provision of intrastate telecommunications  
22 service;

23 (b) The Applicant should be ordered to maintain its accounts and records as  
24 required by the Commission;

25 (c) The Applicant should be ordered to file with the Commission all financial and  
26 other reports that the Commission may require, and in a form and at such times as the  
27 Commission may designate;

28 (d) The Applicant should be ordered to maintain on file with the Commission all  
current tariffs and rates, and any service standards that the Commission may require;

1 (e) The Applicant should be ordered to comply with the Commission's rules and  
 2 modify its tariffs to conform to these rules if it is determined that there is a conflict  
 between the Applicant's tariffs and the Commission's rules;

3 (f) The Applicant should be ordered to cooperate with Commission investigations  
 4 including, but not limited to, customer complaints;

5 (g) The Applicant should be ordered to participate in and contribute to the Arizona  
 Universal Service Fund, as required by the Commission;

6 (h) The Applicant should be ordered to notify the Commission immediately upon  
 7 changes to the Applicant's name, address or telephone number;

8 (i) The Applicant's intrastate interexchange service offerings should be classified  
 9 as competitive pursuant to A.A.C. R14-2-1108;

10 (j) The Applicant's maximum rates should be the maximum rates proposed by the  
 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive  
 11 services should be the Applicant's total service long run incremental costs of  
 12 providing those services as set forth in A.A.C. R14-2-1109;

13 (k) In the event that the Applicant states only one rate in its proposed tariff for a  
 competitive service, the rate stated should be the effective (actual) price to be charged  
 14 for the service as well as the service's maximum rate;

15 (l) In the event the Applicant requests to discontinue and/or abandon its service  
 area it must provide notice to both the Commission and its customers in accordance  
 16 with A.A.C. R14-2-1107; and

17 (m) Before Applicant accepts customers transferred from any telecommunications  
 18 service provider to its network, it must make sure that the entity transferring the  
 customers has obtained necessary Commission approval and a waiver to the  
 19 Commission's slamming and cramming rules.

20  
 21 13. Staff further recommended that Applicant's Certificate should be conditioned upon the  
 22 following:

23 (a) Applicant shall file a conforming tariff for each service within its CC&N  
 24 within 365 days from the date of an Order in this matter, or 30 days prior to  
 providing service, whichever comes first.

25 (b) Applicant shall provide proof of procuring a performance bond as described  
 26 below, and file proof of that performance bond within 365 days from the date  
 of an Order in this matter, or 30 days prior to providing service, whichever  
 27 comes first. The performance bond must remain in effect until further order of  
 the Commission. However, if at some time in the future, the Applicant does  
 28 not collect from its customers an advance, deposit, and/or prepayment, the

1 Applicant should be allowed to file a request for cancellation of its established  
2 performance bond regarding its resold interexchange service with the  
3 Commission for Staff's review, after which, Staff will forward its  
4 recommendation to the Commission.

5 (c) Applicant shall procure a performance bond in the initial amount of \$10,000,  
6 with the minimum bond amount of \$10,000 to be increased if at any time it  
7 would be insufficient to cover all advances, deposits, prepayments collected  
8 from its customers, in the following manner: The bond amount should be  
9 increased in increments of \$5,000, with such increases to occur whenever the  
10 total amount of the advances, deposits or prepayments reaches a level within  
11 \$1,000 under the actual bond amount.

12 14. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
13 Finding of Fact No. 13 above, then Applicant's Certificate should become null and void after due  
14 process.

15 15. The rates proposed by these filings are for competitive services.

16 16. Staff's recommendations as set forth herein are reasonable.

17 **CONCLUSIONS OF LAW**

18 1. Applicant is a public service corporation within the meaning of Article XV of the  
19 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

20 2. The Commission has jurisdiction over Applicant and the subject matter of the  
21 application.

22 3. Notice of the application was given in accordance with the law.

23 4. Applicant's provision of resold interexchange telecommunications services is in the  
24 public interest.

25 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for  
26 providing competitive resold interexchange telecommunications services in Arizona.

27 6. Staff's recommendations are reasonable and should be adopted.

28 **ORDER**

IT IS THEREFORE ORDERED that the application of Sprint Long Distance, Inc. for a  
Certificate of Convenience and Necessity for authority to provide competitive resold interexchange  
telecommunications services, except local exchange services, is hereby granted, conditioned upon its  
compliance with the condition recommended by Staff as set forth above.

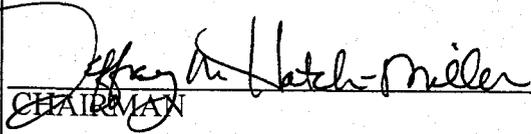
1 IT IS FURTHER ORDERED that Staff's recommendations set forth in Finding of Fact No.  
2 12 above are hereby adopted.

3 IT IS FURTHER ORDERED that Sprint Long Distance, Inc. shall comply with the adopted  
4 Staff recommendations as set forth in Finding of Fact No. 12, above.

5 IT IS FURTHER ORDERED that if Sprint Long Distance, Inc. fails to meet the timeframes  
6 outlined in Finding of Fact. No. 13 above that the Certificate of Convenience and Necessity  
7 conditionally granted herein shall become null and void after due process.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10  
11   
12 CHAIRMAN

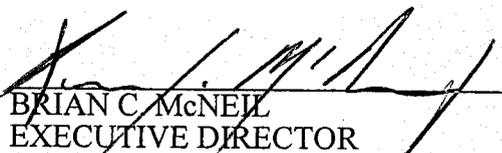
COMMISSIONER

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14 COMMISSIONER

COMMISSIONER

  
COMMISSIONER

15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
16 Director of the Arizona Corporation Commission, have  
17 hereunto set my hand and caused the official seal of the  
18 Commission to be affixed at the Capitol, in the City of Phoenix,  
19 this 29<sup>th</sup> day of June, 2006.

20   
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

21 DISSENT \_\_\_\_\_

22  
23  
24 DISSENT \_\_\_\_\_

25 AB:mj

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